

REMARKS

Claims 11 and 12 have been amended to improve clarity. No new matter has been added.

The Office Action mailed August 2, 2007, has been received and reviewed. Claims 1 through 6, 8, and 11 through 14 are currently pending in the application. Claims 1 through 6, 8, and 11 through 14 stand rejected. Claims 11 and 12 have been amended. Applicants respectfully request reconsideration of the application in light of the amendments and arguments presented herein.

35 U.S.C. § 102 Anticipation Rejections

Anticipation Rejection Based on U.S. Patent No. 4,460,640 to Chi *et al.*

Claims 1 and 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,460,640 to Chi *et al.* (“Chi”). Applicants respectfully traverse this rejection, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The 35 U.S.C. § 102(b) anticipation rejection is improper because Chi does not expressly or inherently describe each and every element of claims 1 and 4. Independent claim 1 recites, in part, the element of “wherein the composite article is configured as at least a component of a rocket nozzle.” Chi does not expressly describe this element of claim 1 because nothing in Chi discloses configuring the composite article as at least a component of a rocket nozzle.

Chi also does not inherently describe this element. The Examiner alleges that “[s]ince [Chi] teaches the components as claimed, the resulting composite article would be inherently capable of being configured as at least a component of a rocket nozzle.” *Office Action*, 08/02/2007, page 3 lines 3-5. However, to establish inherency, the Examiner must provide rationale or evidence tending to show inherency. M.P.E.P. § 2112 IV. “The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.” *Id.* Furthermore, “[t]o establish inherency, the

extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’” *Id.*

The Examiner has not provided any rationale in support of the assertion of inherency. Specifically, the Examiner has not provided any support or evidence that the above-mentioned element is necessarily present in Chi. Rather, the Examiner appears to suggest that inherency is established merely because the fiber reinforced glass composites of Chi may be configured as at least a component of a rocket nozzle. However, the proper test for establishing inherency is whether the fiber reinforced glass composites of Chi are necessarily configured as at least a component of a rocket nozzle. Because the fiber reinforced glass composites of Chi are not necessarily configured as at least a component of a rocket nozzle, the Examiner’s assertion of inherency is based merely on probabilities or possibilities and, therefore, is improper.

Since Chi does not expressly or inherently describe each and every element of claim 1, the anticipation rejection of claim 1 is improper and should be withdrawn.

Claim 4 is allowable, *inter alia*, as depending from an allowable base claim, namely claim 1.

Anticipation Rejection Based on U.S. Patent No. 5,744,075 to Klett *et al.*

Claims 1 through 6, 8, and 11 through 14 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,744,075 to Klett *et al.* (“Klett”). Applicants respectfully traverse this rejection, as hereinafter set forth.

Klett does not expressly or inherently describe each and every element of claims 1 through 6, 8, and 11 through 14 because Klett does not expressly describe the element of “wherein the composite article is configured as at least a component of a rocket nozzle,” as recited in independent claims 1 and 13. Klett does not expressly describe this element because nothing in Klett discloses configuring the composite article as at least a component of a rocket nozzle.

Klett also does not inherently describe this element. The Examiner alleges that “[s]ince [Klett] teaches the components as claimed, the resulting composite article would be inherently

capable of being configured as at least a component of a rocket nozzle.” *Office Action*, 08/02/2007, page 3 lines 13-15. However, for reasons similar to those previously discussed, the Examiner has not provided any rationale in support of the alleged inherency. Specifically, the Examiner has not provided any support or evidence that the above-mentioned element is necessarily present in Klett. Since the composite materials of Klett are not necessarily configured as at least a component of a rocket nozzle, the Examiner’s assertion of inherency is based merely on probabilities or possibilities and, therefore, is improper.

Since Klett does not expressly or inherently describe each and every element of independent claims 1 and 13, the anticipation rejection of these claims is improper and should be withdrawn.

Claims 2 through 6, 8, 11, 12, and 14 are allowable, *inter alia*, as depending from an allowable base claim, namely claims 1 or 13.

CONCLUSION

Claims 1 through 6, 8, and 11 through 14 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink that reads "Katherine A. Hamer". The signature is written in a cursive, flowing style.

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